

Appl. No. 10/827,087
Docket No. 9607
Amdt. dated February 1, 2007
Reply to Office Action mailed on December 8, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1 – 5 and 8 - 13 are pending in the present application. No additional claims fee is believed to be due.

Rejections Under 35 USC §103 Over Cammarota in view of Muckenfuhs

Claims 1, 8 and 13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cammarota et al (US 6,307,119) in view of Muckenfuhs et al (US 4,934,535). The Office Action asserted that Cammarota teaches a disposable absorbent article (20) and method of making the same comprising: a) a liquid pervious topsheet (42); b) a liquid impervious backsheet (40) that is at least partially joined to the topsheet (42); c) an absorbent core (44) disposed at least partially between the topsheet (42) and the backsheet (40); and d) a wetness indicator (60, 66) at least partially disposed between the absorbent core (44) and the backsheet (40) and in liquid communication with the absorbent core (44); the wetness indicator comprising a hidden central graphic (60, 81, 96, 97) and a background graphic (66, 85); wherein the central graphic comprises a permanent color composition and the background graphic comprises at least one responsive color composition and that, upon wetting, exhibits a visible change that is selected from the group consisting of a color change, a graphic change, and combinations thereof. In contrast to the statement (on page 2 of the Office Action) that Cammarota teaches “the wetness indicator comprising a hidden central graphic” the Office noted (on page 3 of the Office Action) that Cammarota does not teach that the central graphic is hidden. The Office Action relied on Muckenfuhs as disclosing a package for diapers for storage and transport of multiple diapers.

In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.*

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Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

Cammarota discloses a disposable absorbent article that includes permanent character graphics (81), permanent object graphics (96 and 97) and active object graphics (85). The active object graphics of Cammarota make up the wetness indicator because they are constructed to disappear or appear when contacted with urine (urine-soluble inks) (see col. 2, lines 39-46), while the permanent object graphics and permanent character graphics do not substantially change when insulted with urine (non-soluble inks) (col. 3, lines 46-51). Thus, by definition, the active object graphics of Cammarota do not comprise permanent inks, i.e. inks that are non-soluble. Further, Cammarota teaches that the wetness indicator (active object graphics) and the permanent object graphics and permanent character graphics are printed on physically different parts of the disposable absorbent article (See Figs. 1-8). Irrespective of these teachings, however, the reference fails to teach or suggest a wetness indicator, like Applicant's that comprises both a permanent color composition (i.e. central graphic that is non-soluble) and a responsive color composition (i.e. background graphic that is soluble) that upon wetting exhibits a visible change to reveal the previously hidden central graphic as required by claims 1 and 13.

Rather, the reference teaches one or more active graphics that when contacted with fluid appear or fade to match the color of the outer cover. There is no mention or teaching by Cammarota that the active object graphic disclosed therein hides the permanent character graphics so that upon wetting, the permanent character graphic is revealed. In contrast, the permanent character graphics of Cammarota are located separate from the active object graphics and are always visible.

Moreover, the deficiencies of Cammarota are not resolved by Muckenfuhs. While Muckenfuhs teaches diapers arranged in a package such that they are hidden from view, Applicant finds no teaching by Muckenfuhs of a wetness indicator ink that comprises both a permanent color composition (i.e. central graphic that is non-soluble) and a responsive color composition (i.e. background graphic that is soluble) that upon wetting

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exhibits a visible change to reveal the previously hidden central graphic as required by claims 1 and 13. To the contrary, Muckenfuhs does not related to absorbent articles having wetness indicators at all. Rather, Muckenfuhs is directed to an easy open flexible bag. Thus, Cammarota in view of Muckenfuhs does not support a rejection under 35 U.S.C. §103.

Furthermore, there must be some reason, suggestion or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination of the references. *In re Oetiker*, 977 F.2d 1443, 24 U.S.P.Q.2d 1443 (Fed. Cir. 1992). Applicant finds no such teaching, suggestion, or incentive for the combination of Cammarota and Muckenfuhs. In fact, in view of the differences, i.e. diapers having wetness indicating graphics vs. a flexible bag filled with diapers, one skilled in the art would have no inclination or motivation to combine any teachings from the references.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Because the cited combination fails to teach all of the claim limitations of claims 1 and 13, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed article and method in the possession of the public. Since claim 8 depends from claim 1, the cited combination also fails to teach all of its claim limitations. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (Fed. Cir. 1988). Therefore, Applicant asserts that claims 1, 8 and 13 are nonobvious over the cited combination and are in condition for allowance.

Rejection Under 35 USC §103(a) Over Cammarota and Muckenfuhs
in view of Baker, Ball, and Ito

Claims 2-5 and 9-12 have been rejected under 35 USC §103(a) as being unpatentable over Cammarota and Muckenfuhs as applied to claims 1, 8 and 13, and further in view of Baker et al (USP 3675654, Ball (USP 4909879), and Ito et al. (USP 5595754). The Office Action asserts that Olson does not teach the specific types/forms of pigments, dyestuffs, solvents, or a varnish coating but points out that these components

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are commonly issued in a wide variety of combinations in textile graphics production and in changeable graphics/indicators in absorbent articles. For purposes of this response, Applicant assumes that reference to Olson was a mistake and that the Office intended to rely on Cammarota and Muckenfuhs. The Office looks to Baker as teaching a varnish coating used to coat a moisture-actuated indicating agent, Ito et al. as teaching a non-aqueous solvent, and Ball as teaching the use of soluble dyestuff. The Office reasons that it would have therefore been obvious to one of ordinary skill in the art to add the component materials of the secondary references to make the graphics of Cammarota and Muckenfuhs in order to provide very well known components of graphics/indicator/dye formation.

In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* Applicant respectfully traverses this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed above, Cammarota and Muckenfuhs fail to teach or suggest a wetness indicator that comprises both a permanent color composition (i.e. central graphic) and a responsive color composition (i.e. background graphic) that upon wetting exhibits a visible change to reveal the previously hidden central graphic as required by claim 1. Now, Baker relates to disposable diapers, sanitary napkins, bandages and the articles, comprising an absorbent pad disposed on a translucent back sheet of water impervious material contain a moisture-actuated indicating agent. The reference, however, does nothing to supplement Cammarota and Muckenfuhs' failure to teach or suggest a wetness indicator comprising both a permanent color composition and a responsive color composition. Similarly, Ito, which relates to a sheet for a pet animal to be used for checking urine of the pet animal for physical examination, does not remedy this failed teaching either. In fact, Ito's disclosure is in no way directed to the graphic inclusive

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absorbent articles of the present invention, let alone Applicant's specific combination of a permanent color composition and a responsive color composition.

Moreover, Ball discloses a process for marking a diaper fabric which comprises applying to the fabric one or more images by means of an ink jet printing technique during the fabrication of the diaper from its component materials. In a preferred embodiment, the reference teaches that the image is formed from a water-soluble dyestuff. Again, this reference also fails to teach or suggest the limitations missed by Cammarota and Muckenfuhs. That is, despite the reference's teaching of the use of a water-soluble dyestuff to form images on a diaper fabric, there remains no teaching or suggestion of the particular type of wetness indicator required by claim 1. It is clear that since this fundamental limitation is not taught or suggested by the primary or any one of the secondary references that the present invention could not have been rendered obvious at the time of its invention by a combination of the cited references.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Because the cited combination fails to teach all of the claim limitations of claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claims 2-5 and 9-12 depend either directly or indirectly from claim 1, the cited references also fail to teach all of their claim limitations. Therefore, Applicant asserts that claims 2-5 and 9-12 are nonobvious over the cited combination and are in condition for allowance.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 103(a). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of

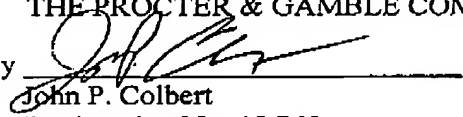
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the foregoing, reconsideration of this application and allowance of Claims 1-5 and 8-13 is respectfully requested.

Respectfully submitted,

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Date: February 1, 2007
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